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HOUSE BILL 598

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO COUNTY CORRECTIONS; ADDRESSING THE PLACEMENT OF MUNICIPAL INMATES IN COUNTY DETENTION FACILITIES; PROVIDING FOR REDISTRIBUTION OF THE LOCAL GOVERNMENT CORRECTIONS FUND UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR A FEE FOR PLACEMENT OF MUNICIPAL INMATES IN COUNTY DETENTION FACILITIES UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-3-23 NMSA 1978 (being Laws 1959, Chapter 104, Section 1, as amended) is amended to read:

"33-3-23. CONFINEMENT OF PRISONERS COMMITTED BY AN INDIAN GOVERNMENT OR BY A MUNICIPALITY--COST.--

A. Subject to the payment by [~~the~~] an Indian tribe, [~~band~~] nation or pueblo in New Mexico or the United States of [~~the fees established for the jail~~] a fee to a county pursuant

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1 to an agreement with the county, or subject to the payment of a  
2 fee by a municipality to a county pursuant to Section 3 of this  
3 2007 act or to an agreement with the county, the sheriff of  
4 each county ~~[his]~~ or the sheriff's deputy, the jailer, the jail  
5 administrator as defined in Section 4-44-19 NMSA 1978 or an  
6 independent contractor operating the jail is required to  
7 receive ~~[any]~~ a person committed to ~~[his]~~ custody in conformity  
8 with a regular process issued by or under the authority of  
9 ~~[any]~~ the Indian tribe, ~~[band]~~ nation or pueblo ~~[in New~~  
10 ~~Mexico]~~, the municipality or the United States and is further  
11 required to retain custody until ~~[such]~~ the person is placed at  
12 liberty according to the laws of the United States, New Mexico  
13 or ~~[of]~~ the Indian tribe, ~~[band]~~ nation or pueblo.

14 B. No sheriff, jail administrator or independent  
15 contractor operating a jail shall be required to receive ~~[any~~  
16 ~~such committed person]~~ a person committed pursuant to  
17 Subsection A of this section if to do so would exceed the  
18 capacity of the ~~[facility]~~ jail or if the Indian tribe, nation  
19 or pueblo, the United States or the municipality refuses to pay  
20 the applicable fee. The sheriff, jail administrator or  
21 independent contractor may also return any prisoner received by  
22 ~~[him]~~ the sheriff, jail administrator or independent contractor  
23 under this section to the committing authority if the capacity  
24 of the ~~[facility]~~ jail is exceeded."

25 Section 2. Section 33-3-25 NMSA 1978 (being Laws 1983,

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1 Chapter 134, Section 1, as amended) is amended to read:

2 "33-3-25. LOCAL GOVERNMENT CORRECTIONS FUND CREATED--  
3 ADMINISTRATION--DISTRIBUTION.--

4 A. There is created in the state treasury [a] the  
5 "local government corrections fund" to be administered by the  
6 administrative office of the courts.

7 B. All balances in the local government corrections  
8 fund are appropriated to the administrative office of the  
9 courts for payment to counties and municipalities in counties  
10 with a metropolitan court for use by counties and those  
11 municipalities for county or municipal jailer or juvenile  
12 detention officer training; for the construction planning,  
13 construction, maintenance and operation of the county detention  
14 facility, municipal jail or juvenile detention facility; for  
15 paying the cost of housing county or municipal prisoners or  
16 juveniles in any detention facility in the state; for  
17 alternatives to incarceration; or for complying with match or  
18 contribution requirements for the receipt of federal funds  
19 relating to detention facilities, jails or juvenile detention  
20 facilities. Payments shall be made quarterly upon  
21 certification by the magistrate court or metropolitan court and  
22 the motor vehicle division of the taxation and revenue  
23 department of eligible amounts as provided in Subsection C of  
24 this section.

25 C. Each county shall be eligible for a payment in

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1 an amount equal to the costs and fees collected by a magistrate  
2 court or a metropolitan court and the motor vehicle division  
3 pursuant to offenses committed within the county and deposited  
4 in the local government corrections fund, provided that, in a  
5 county with a metropolitan court, the county shall be eligible  
6 for a payment in an amount equal to costs and fees collected  
7 pursuant to offenses committed within the boundaries of the  
8 unincorporated areas of the county, and a municipality in that  
9 county, provided that it contributes funds in an amount equal  
10 to a minimum of one-half of the operating costs of the county  
11 detention facility, shall be eligible for a payment in an  
12 amount equal to the costs collected pursuant to offenses  
13 committed within the boundaries of the municipality. If the  
14 municipality in that county does not contribute funds in an  
15 amount equal to a minimum of one-half of the operating costs of  
16 the county detention facility, the county shall receive the  
17 funds otherwise available to the municipality, unless the  
18 municipality operates or contracts for the operation of a  
19 municipal jail or can demonstrate that it is planning the  
20 construction of or is constructing a municipal jail.

21 D. Payments from the local government corrections  
22 fund shall be made upon vouchers issued and signed by the  
23 director of the administrative office of the courts upon  
24 warrants drawn by the secretary of finance and administration.

25 E. All money received by a county or a municipality

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1 pursuant to this section shall be deposited in a special fund  
2 in the county or municipal treasury and shall be used solely  
3 for:

4 (1) county or municipal jailer or juvenile  
5 detention officer training;

6 (2) the construction planning, construction,  
7 maintenance and operation of the county detention facility,  
8 municipal jail or juvenile detention facility;

9 (3) paying the cost of housing county or  
10 municipal prisoners or juveniles in any detention facility in  
11 the state;

12 (4) alternatives to incarceration; or

13 (5) complying with match or contribution  
14 requirements for the receipt of federal funds relating to  
15 detention facilities, jails or juvenile detention facilities."

16 Section 3. A new section of Chapter 33, Article 3 NMSA  
17 1978 is enacted to read:

18 "[NEW MATERIAL] COUNTY DETENTION FACILITY FEES--HOUSING OF  
19 MUNICIPAL INMATES.--

20 A. If a municipality within a class A county with a  
21 population of five hundred thousand or more persons does not  
22 operate or contract for the operation of a municipal jail and  
23 does not contribute funds to the county in an amount that is  
24 equal to a minimum of one-half of the operating costs of the  
25 county detention facility, the municipality shall pay a fee to  
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1 the board of county commissioners for each inmate housed in the  
2 county detention facility who is charged with a municipal  
3 offense or was arrested by a municipal police officer. The fee  
4 shall be established by the board of county commissioners and  
5 approved by the local government division of the department of  
6 finance and administration.

7 B. In addition to the fee prescribed in Subsection  
8 A of this section, a municipality shall be responsible for the  
9 costs of municipal inmate services, including:

- 10 (1) medical services, treatment or care;
- 11 (2) prescription drug services;
- 12 (3) dental services;
- 13 (4) mental health services, treatment or care;
- 14 (5) vision treatment or care;
- 15 (6) ambulatory services; and
- 16 (7) transportation services.

17 C. A municipality shall be responsible for the fee  
18 and costs described in Subsections A and B of this section from  
19 the date a municipal inmate is booked into the county detention  
20 facility through the date the inmate is released from that  
21 facility.

22 D. Upon the receipt of a bill from the county for  
23 the fee and costs imposed pursuant to this section, the  
24 municipality shall process the bill as a preferential bill of  
25 expense and pay it in full before the municipality pays any

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1 other bill, fee or salary it may owe."

2 Section 4. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2007.

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